IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4031 OF 2007

Mr. Umesh Raghunath Tandel .... Petitioner

Vs.

City & Industrial Development Corporation of Maharashtra Ltd. & Ors. .... Respondents

WITH
WRIT PETITION NO. 4033 OF 2007

Ms. Usha Ramchandra Patil .... Petitioner

Vs.

City & Industrial Development Corporation of Maharashtra Ltd. & Ors. .... Respondents

WITH
WRIT PETITION NO. 4039 OF 2007

Mr. Ravindra Laxman Mhatre .... Petitioner

Vs.

City & Industrial Development Corporation of Maharashtra Ltd. & Ors. .... Respondents

WITH
WRIT PETITION NO. 4040 OF 2007

Mr. Mahesh Ramkrishna Bhopi .... Petitioner

Vs.

City & Industrial Development Corporation of Maharashtra Ltd. & Ors. .... Respondents

Mr. P.M. Palshikar for the Petitioner.
Mr. K.K. Tated for the Respondent nos. 1 to 3

CORAM : A.S. OKA, J.
DATE : 9TH JULY, 2007

P.C.

1) I have heard learned counsel appearing for the Petitioners and learned counsel appearing for the 1st to 3rd respondents in these petitions.

2) The 4th respondent is a formal party being the learned Member of the Industrial Court. As the facts of these petitions are more or less identical, I am referring to the facts of the Writ Petition No. 4031 of 2007.

3) According to the case of the Petitioner, on 22nd September 1995, he was employed with the first Respondent. After termination of his employment, the Petitioner filed a complaint before the Industrial Court for order of reinstatement as well as for grant of permanency on the ground that before the termination, he had completed 240 days of service in the employment of the 1st Respondent. By the impugned order, the Industrial Court held that the said Court had no jurisdiction to entertain and try the complaint filed by the Petitioner and the said jurisdiction is vested with the concerned labour Court.

4) After arguing the petitions for some time, the learned Counsel for the Petitioners invited my attention to the decision of a learned Single Judge of this Court in the case of A-Z (Industrial) Premises Co-op. Society Ltd. Vs. A.T. Utekar & Ors., 1997 II CLR 1033. He submitted that this Court may adopt the course adopted by the learned Single Judge in the case of A-Z (supra) and transfer the complaint to the Labour Court. The learned Counsel appearing for the 1st to 3rd respondent submitted that in so far as passing the order of transfer is concerned, the said respondents were leaving it to this Court. He further submitted that the employment of the petitioners was terminated in the year 1997 and the complaint was filed by the Petitioners in the Industrial Court in December 2000. He submitted that the issue of delay in filing the complaint before the Labour Court may expressly kept open.

5) I have considered the submissions made by the learned counsels of the parties. It must be noted here that alongwith the complaint filed before the Industrial Court, the Petitioner had filed an application for condonation of delay. While passing the impugned order, the learned Judge of the Industrial Court has noted that there was no

delay in filing the complaint as the cause of action for filing the complaint was inherently continuous and recurring in nature. In view of this observation made by the learned Industrial Court, the contention raised by the learned Counsel appearing for the 1st to 3rd respondents cannot be accepted.

6) Considering the facts and circumstances of the case, there is no reason why the approach adopted by this Court in the case A-Z (Industrial) Premises Co-op. Society Ltd vs. A.T. Utekar & Ors. (supra) should not be adopted and the complaint should not be transferred to the concerned Labour Court at Thane. Hence, I pass following order.

O R D E R

i) The view taken by the Industrial Court on the maintainability of the complaints filed by the Petitioners in the Industrial Court is confirmed.

ii) However, the complaints filed by the Petitioners are hereby transferred to the Labour Court at Thane.

iii) The Principal Judge of the Labour Court, Thane will assign the complaints to appropriate Court for disposal in accordance with law.

iv) It is made clear that the complaints filed by the Petitioners will have to be heard afresh and the same will have to be disposed of after holding a fresh trial.

v) All legal and factual contentions of the parties in the complaints are expressly kept open.

vi) It is obvious that the complaints will be decided by the concerned Labour Court on its own merits after considering the evidence adduced by the parties.

vii) Writ Petitions are disposed of in above terms with no order as to costs.

(A.S. OKA, J.)